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14 **IN THE UNITED STATES DISTRICT COURT**  
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
16 **SAN JOSE**

17 **VICKI R. SEIDEL**

18 Plaintiff,

19 v.

20 **UNITED STATES OF AMERICA,**  
21 Defendant.

22 CASE NO: 5:07-CV-03141 - JF  
23 Honorable Judge Jeremy Fogel  
24 MOTION FOR  
25 ADMINISTRATIVE RELIEF

26 **MOTION FOR EVIDENTIARY PRELIMINARY INJUNCTION HEARING**  
27 **(ADMINISTRATIVE RELIEF)**

28 Comes now the defendant, Vicki R. Seidel, by and through her attorneys of record, Robert Alan Jones and Chris Dietrich, and pursuant to Local Rule 7-11 moves for administrative relief requesting an evidentiary hearing regarding the invalidity of the underlying assessment. Also to review IRS procedures in levying in community property states that are the basis for the plaintiff's underlying claims in the instant case. We request that said hearing be set for the July 6, 2007 hearing scheduled in the instant case, or at the earliest practicable date.

WHEREFORE, the Plaintiff prays that the Court grant the instant motion and grant an evidentiary hearing on the motion for preliminary injunction be set for the July 6, 2007 hearing

1 scheduled in the instant case or at the earliest practicable date.

2 **MEMORANDUM OF POINTS AND AUTHORITIES.**

3 The instant motion is brought pursuant Local Civil Rules 7-11, 65, 7-2, 7-4 and Federal Civil  
4 Rule 65 for the Court to grant an evidentiary hearing in order for the Plaintiff to present evidence  
5 regarding bitterly disputed facts that are at the heart of the pending motions. In this instance there  
6 is a true necessity for an evidentiary hearing. "Rule 65 does not [always] require an evidentiary  
7 hearing;" undisputed material facts require no hearing, but "bitterly disputed" facts do. See,  
8 *McDonald's Corp. V. Robertson*, 147 F.3d 1301, 1311-13 (11<sup>th</sup> Cir. 1998).

9 Further, counsel for the plaintiff have contacted , AUSA David Denier, the government  
10 attorney assigned to this case. AUSA Denier when informed of the request for evidentiary hearing  
11 stated that the government would oppose such hearing and move to quash any subpoenas issued for  
12 such hearing. (See Declaration of James D. Arthur, Exhibit 1).

13 At the requested hearing, Plaintiff will produce an expert witness who will testify both as an  
14 expert and as a fact witness regarding the invalidity of the underlying assessment. It is expected that  
15 the government will dispute Plaintiff's claim. Proper evidence under the Federal Rules of Evidence  
16 will be required to resolve this dispute.

17 DATED: This 23<sup>rd</sup> day of June, 2007.

18 Respectfully submitted,

19 /s/ Robert Alan Jones  
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**CERTIFICATE OF SERVICE**

This is to certify that on June 23, 2007, I caused to be served the foregoing **MOTION FOR ADMINISTRATIVE RELIEF**, using the electronic court filing system, and will be distributed to all parties shortly after its filing.

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Dated this 23<sup>rd</sup> day of June, 2007.

/s/ Stephanie Burton  
Office of Robert Alan Jones